

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1548 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

NANIKRAM RUPCHAND NATHANI

Versus

DAYALIBAI WD/OF RIJHUMAL KUNGU

Appearance:

MR GK UPADHYAY for Petitioner
MR KC SHAH for Respondent No. 1

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 18/08/2000

ORAL JUDGEMENT

This is landlord's revision under Section 29(2)
of the Bombay Rent Act against the concurrent judgement
and decrees of the two Courts below dismissing his suit
for eviction of the tenant.

2 Brief facts are that the disputed portion was let out to the defendant's husband - Rajhumal Kungumal on monthly rent of Rs.16.50p. He expired on 30.4.1972. Thereafter the defendant continued as tenant of the disputed portion on the same rent. The landlord filed suit for eviction of the defendant-tenant on three grounds : firstly, that the disputed accommodation was reasonably and bona fide required by the plaintiff for personal use and occupation; secondly, it was alleged that the defendant did not use the suit premises for the purpose for which it was let out for a continuous period of six months immediately preceding the date of the institution of the suit and thirdly, that the defendant without landlord's written consent erected permanent structure in the suit premises.

3 The suit was resisted by the tenant-respondent denying these allegations and also pleading that the notice was illegal.

4 The trial Court found that the landlord failed to establish any of the grounds for eviction set up in the plaint. It further found that the notice was legal. However, since the landlord failed to establish the grounds for tenant's eviction, the suit was dismissed. No finding was recorded by the trial Court as to what amount is due from the defendant to the plaintiff.

5 Feeling aggrieved, the landlord preferred appeal. The appellate Court dismissed the appeal. Hence, this revision.

6 None has appeared from the side of the revisionist. The revision was filed by Shri K.L. Abichandani, advocate. He expired whereupon notice was issued to the revisionist to engage another counsel. It appears from the record that thereafter Shri G.K.Upadhyaya was engaged as the advocate for the revisionist. Shri G.K. Upadhyaya, it is informed, has been appointed in the subordinate judiciary. Thereafter no counsel has been engaged by the revisionist nor he is present. Shri K.C. Shah, the learned counsel for the respondent, has been heard.

7 I have examined the judgements of the two courts below. The concurrent findings recorded by the two courts below are based upon proper appreciation of evidence on record. No infirmity or illegality is found in the judgements recorded by the two courts below. Consequently, I do not find any ground for interference

in concurrent findings recorded by the two courts below.
The Revision is therefore without substance and is liable
to be dismissed. The Revision is accordingly dismissed
with no order as to costs.

(mohd)